

### **III. REMARKS**

In the Office Action, objection was made to claim 4, as noted in Point 3 of the Office Action. With respect to the objection of claim 4, it appears that a strike-through of the letter "a" was not readable; the cancellation of the letter "a" is repeated in this response, so that the text reads "the activity log of the receiving party".

Claims 1-3, 7-12, and 14-22 were rejected under 35 U.S.C. 102(e) as being anticipated by Tuomela (US Pat. Applic. Pub. 2001/0031633), claim 13 was rejected under 35 U.S.C. 103 as being unpatentable over Tuomela, and claims 4-6 were rejected under 35 U.S.C. 103 as being unpatentable over Tuomela in view of Silverman (US 6,035,031) for reasons set forth in the Office Action.

With respect to the rejections under 35 U.S.C. 102 and 103, various ones of the claims are amended and the following argument is presented to distinguish the claimed subject matter from the teachings of the cited art, considered individually and in combination, thereby to overcome the rejections and to show the presence of allowable subject matter in the claims.

The present specification (page 6, beginning at line 11) discloses the activity resulting from an attempt by a calling party to initiate a communication with a party to be called (referred to as the "target" in Fig. 3). As noted at line 18, the caller's terminal contacts an activity status server. The server provides the calling party with information useful in enabling the calling party to make a selection among various options as to how to proceed for initiating communication with the called party.

In the prior response, an argument was presented, in accordance with the foregoing teaching of the specification, to show a distinction between the present claims and the teachings of the cited art. The argument pointed out that the calling party is able to check up on the present ability of the receiving party to receive a message, and to make a decision as to how to handle the situation, all of this before the telephonic

communication travels half-way around the world to a possible location of the called party. Thus, in the practice of the present invention, a caller can avoid an unnecessary interruption of the called party's activity.

In Point 2 of the present Action, the examiner states that the argument presented in the prior response does not have an adequate basis in the subject matter as set forth in the claims.

Accordingly, in this response, the claims are amended to provide a clearer statement, in accordance with the foregoing teaching of the specification, to distinguish the claims from the cited art. This may be demonstrated with respect to claim 1, as amended. Corresponding amendments are made to the other independent claims 4, 9, 14 and 16.

Claim 1 recites a step of establishing a context based file arrangement, including and activity status server, wherein the file arrangement records activity status for each of the members of the group. The claim further recites a step of setting up an electrical communications connection, via the server, between a calling party and a receiving party.

Thereafter, as set forth in the amended passage of claim 1, claim 1 deals with a situation that arises before establishment of a communication, via the communications connection, between the calling party and the receiving party. The claim discloses that, upon an attempt by the calling party to initiate the communication, the calling party becomes connected to an activity log provided by the server. The connection to the activity log enables the calling party to make a check from the activity log of the receiving party to obtain information concerning the ability of the receiving party to receive a message sent by the calling party. Thereupon, as set forth in the final step of the claim, based on that information in the activity log, a decision is made about the establishment of the communications connection proper.

The amended passage of claim 1 clearly distinguishes over the teachings of Tuomela, which is the primary reference employed in rejection of the claims.

The basic teaching of Tuomela relates to the use of an answering machine at a called party. Therefore, the teachings of Tuomela do not come into play until after a communication has been established between the calling party and the answering machine of Tuomela. As noted in the previous response, Tuomela teaches [0003] that a telephone caller may require more information as to the disposition of the party being called, which information might not be provided by the prerecorded outgoing message. The solution to this problem, according to Tuomela [0008], utilizes steps of storing a current context of the called party (which may be determined by various listed means), determining if an automatic call answering function is enabled, and transferring information to the caller without ringing the phone of the called party. In [0017] Tuomela provides an example of information to be given by the answering machine to the caller, namely: a predefined outgoing message might state that the called party is in a meeting and would prefer the caller to leave a message or to call back later. Communication to the caller might be via an SMS text message [0018]. This enables the caller [0022] to determine a next course of action. Any one of a plurality of possible actions [0024-33], including putting the call through now, may be taken in response to a listing of the actions on a WAP page.

Thus, there is a common theme in the system disclosed in Tuomela and in the system disclosed in the present specification, namely, to provide a calling party with data about the status of a called party before the called party picks up the handset with a resultant interruption of his present activity. The timely provision of such data enables the calling party to steer clear of an unnecessary interruption of the called party's activity.

However, there is a major distinction between the practice of the Tuomela system (and methodology) and the practice of the system (and methodology) of the presently claimed subject matter. In the typical situation described by Tuomela, the called party adapts his own answering machine, by suitable programming, to inform a calling party of the present activity status of the called party, and to suggest the various options available to the calling party. Thus, the calling party, if he is located at a great distance from the called party, may have to establish a communication link half way around the

world, all the way to the called party's answering machine, which intercepts the call just before the called party picks up the handset.

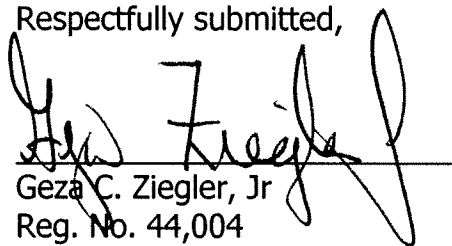
In contrast, in the practice of the system and methodology disclosed in the present specification, and as set forth in the presently claimed subject matter, there is no need for a calling party to call half way around the world to find out if this is a good time to call the called party. All the necessary information is available locally to the calling party.

In view of the foregoing argument, it is believed that the foregoing amendments to the independent claims overcome the grounds of rejection based on Tuomela considered individually and in combination with Silverman, so as to provide allowable subject matter in the claims. It is noted that Silverman is employed to show only one feature, and does not alter the foregoing argument advanced against the primary reference Tuomela.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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Reg. No. 44,004

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Date

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